

THE HUMAN RIGHT TO INCLUSIVE EDUCATION UNDER INTERNATIONAL LAW: MALAYSIAN'S CONCEPT

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Abstract

The right of children to have entry to inclusive education is broadly bolstered in global human rights law; international conventions confirmed by its members and the majority of human rights instruments. The provision of inclusive education is an obligation under international law, and in addition the methods by which to satisfy the extra lawful commitment to make training open to children with disabilities. Inclusive education isn't best an educational system, however a method and an attitude which addresses the studying desires of all learners and allows for the best feasible instructional possibilities. Inclusive education prevents exclusion and promotes the participation of all children in the academic setting and beyond. The question of inclusive and exclusive practices in education plays a central role in academic and political discussions worldwide. This paper talks impaired understudies' entitlement to education in Malaysia, highlighting boundaries to the acknowledgment of this privilege. In this article, the authors provide an overview of the human right to inclusive education under international law prior to the CRPD, followed by a discussion of Article 24 of the CRPD. The authors then discuss the role of inclusive education in Malaysia, which has long been considered as a guide in the field of inclusive education.

Keywords: Human Rights, Inclusive Education, International Law.

2017 GBSE Journal

INTRODUCTION

Inclusive education requires enhancing education systems to wind up more receptive to the necessities of all pupils. Inclusive education is a procedure of reinforcing the limit of the training framework to connect with all learners and can accordingly be comprehended as a key technique to accomplish Education for All (EFA). As a general guideline, it ought to guide all training strategies and works on, the beginning of the way that instruction is an essential human right and the establishment for an all the more just and equivalent society. At present the time has come to bring on the privilege of all children to have quality schooling: to do this, instruction frameworks need to react to the requirements of disabled children. In late decade, systems have started to certainly what a rights-based way to deal with teaching handicapped kids may look like from this human rights point of view. The arrangement is established in building inclusive education frameworks.

As cited inside the OECD file "equity and quality in education: assisting deprived students and schools" (OECD, 2012), the highest acting education provide all of the youngsters opportunities for a good high-quality education. that is consistent with the major precept of inclusive education, which highlights the want of promoting the right of each child and own family to be protected, respected, and valued, to participate, to work in the direction of commonplace goals, and to attain their complete capability with a unique awareness at the most inclined, as an crucial a part of exceptional pedagogy (ISSA, 2010).

Inclusive education involves children learning together, in the context where each individual is valued and is actively engaged in what is learnt and what is taught (Spratt & Florian, 2013). As those authors mentioned, inclusion is a dynamic process which involves all children in the life and learning of the school. The central idea of inclusive education is that all students have equal opportunities to develop their abilities and talents individually and in cooperation with others (Bjørnsrud & Nilsen, 2011), which leads to a higher level of all dimensions of educational quality of - effectiveness, efficiency, equality, relevance and sustainability

The article is divided into three parts. The first part analyses various elements of the right to education of disabled people under the “*Inclusive Education under International Law of Historical View*”. Secondly, then moves to discuss “*Inclusive Education in Malaysia*” and human rights the challenges to progressively realize the right to inclusive education as well as limits to adapting the general education system for disabled children. Thirdly, the article investigates how both making sure the transition to inclusive education structures and how national human rights motion plans and human right signs can assist in the direction of the reason.

INCLUSIVE EDUCATION UNDER INTERNATIONAL LAW OF HISTORICAL VIEW

The Universal Declaration of Human Rights (UDHR) was embraced by the UN as the principal record speaking to a universal agreement on the requirement for a statement of human rights assurances since 1948. Inclusive education with a purpose to practice a rights-based method to education programming in an effort to promote a rights-based education system and ensure that the vision in the Salamanca statement is found out for all children, UNESCO is developing a fixed of hints for planners and choice makers within the Ministry of education and for software officials running in international improvement organizations (UNESCO, 2014). Those recommendations take a systemic method. They emphasize the need for consistency among all ranges of the education system and offer planning tools and checklists to make sure that human rights standards are in vicinity to understand an inclusive and rights-based education system. This indicates an education system that has laws, regulations and practices which can be regular with human rights requirements. This is reflected within the manner the management of the system operates in terms of equality, participation, inclusion, non-discrimination, responsibility and transparentness. As a signatory to the following international agreements, establishing an Inclusive Education system:

The UN Convention on the Rights of the Child (1989) outlines the right to education and training of all children to accomplish the best level of independence and social integration conceivable.

Jomtien World Declaration on Education for All (1990) highlights the dedication to a child focused teaching method where singular contrasts are acknowledged as a challenge and not as an issue.

Salamanca Statement and Framework for Action (UNESCO, 1994) reinforces the schools’ obligation to accommodate all children, regardless of their physical, intellectual, social, emotional, linguistic or other conditions. Further, more than 300 members speaking to 92 governments and 25 worldwide associations considered the essential arrangement shifts required to advance the approach of inclusive education, along these lines empowering schools to serve all pupils, especially those with special education needs.

Dakar Framework for Action (Dakar World Education Conference, (UNESCO 2000) in Notes on the Dakar Framework for Action (2000), the World Education Forum highlights the importance of Inclusive Education, and reiterates that “the inclusion of children with various educationally disadvantaged positions, such as children with special needs, from ethnic minorities, remote communities, and others excluded from education, must be an integral part of strategies to achieve universal primary education”.

UN Convention on the Rights of Persons with Disabilities (2006). Article 24 recognizes the right of persons with disabilities to education in an Inclusive Education system. They set out the central elements that need to be addressed in order to ensure the right to *access* to education, the right to *quality* education and the right to *respect* in the learning environment. The CRPD underscores the rights enforced by other international laws related to education for all, focused on disability, while outlining how these obligations might be met by governments (Human Rights Commission of Malaysia, 2015). The commitment to inclusive education became a legal obligation through Article 24 of the CRPD. Ratification of the CRPD means that countries are legally obliged to provide inclusive, quality and free primary and secondary education to all children.

According to De Beco, 2014; the CRPD, which is the first international human rights treaty of the 21st century, fills a considerable gap in international human rights law. The CRPD turned into followed on 13 December 2006 and entered into force on 3 May additionally 2008 after its 20th ratification. As of September 2013, 133 countries and the European Union had ratified the CRPD, with another 23 having signed but not yet ratified. On 16 June 2014, there have been 158 signatories and 147 ratifications (De Beco, 2014). An overview of the legal frameworks related to inclusive education appears in Table 1.

Table 1: A Signatory International Agreements, Establishing an Inclusive Education System (UNESCO, 2009)

Year	Legal frameworks in support of inclusion 1948-2007
2007	United Nations Declaration on the Rights of Indigenous Peoples
2006	Article 24 of Convention on the Rights of Persons with Disabilities (UN, 2006).
2005	2005 Convention on the Protection and Promotion of Diversity of Cultural Expressions
2000	Dakar Framework for Action (Dakar World Education Conference, UNESCO 2000)
1999	Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor
1990	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
1989	Convention on the Rights of the Child
1989	Convention concerning Indigenous and Tribal Peoples in Independent Countries
1979	Convention on the Elimination of All Forms of Discrimination against Women
1965	1965 International Convention on the Elimination of All Forms of Racial Discrimination
1960	1960 Convention against Discrimination in Education
1948	1948 Universal Declaration of Human Rights

In this case, international law provides that people with disabilities ought to get admission to inclusive education on “an equal basis with others in the communities in which they live,” and governments have to provide affordable accommodation of the individual’s requirements, as well as “effective individualized aid measures in environments that maximize academic and social improvement.” The government needs to make sure that pupils are not excluded from the education system on the basis of their disability (Human Rights Watch, 2016).

On the other hand, Towards 2030; a new vision for education is to transform lives through education, recognizing the important role of education as a main driver of development and in achieving the other proposed Sustainable Development Goals (SDGs). This new vision is fully captured by the proposed SDG 4 “*Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*” and its corresponding targets. It is transformative and universal, attends to the ‘unfinished business’ of the Global Education for All (EFA) agenda and the education-related Millennium Development Goals (MDG), and addresses global and national education challenges. It is inspired by a humanistic vision of education and development based on human rights and dignity; social justice; inclusion; protection; cultural, linguistic and ethnic diversity; and shared responsibility and accountability. INCHEON Declaration Education 2030 reaffirm that education is a public good, a fundamental human right and a basis for guaranteeing the realization of other rights. It is essential for peace, tolerance, human fulfillment and sustainable development. In addition, they recognize education as key to achieving full employment and poverty eradication. Furthermore this declaration will focus our efforts on access, equity and inclusion, quality and learning outcomes, within a lifelong learning approach (World Education Forum, 2015). Over 130 Education Ministers and more than 1500 participants have now adopted the INCHEON Declaration “Education 2030: Towards inclusive and equitable quality education and lifelong learning for all”. The INCHEON Declaration was signed at the end of the World Education Forum (WEF) held in INCHEON, Republic of Korea, during the third week of May 2015 (World Education Forum, 2015). Consequently, every child has the right when all children, regardless of their differences, are educated together, everyone benefits this is the cornerstone of inclusive education.

INCLUSIVE EDUCATION IN MALAYSIA

In accordance with the worldwide trend toward inclusive education, Malaysia formally started its endeavors to incorporate pupils with special needs in mainstream education through its inclusion in workshops and activities started by the United Nations (UN) and United Nations Educational Scientific and Cultural Organization (UNESCO). Guidelines of a few UN arrangements attest the privilege of all kids to equivalent instruction without segregation inside mainstream education the framework.

Malaysia's dynamic arranging in a special education started with its marking of the Salamanca Statement (UNESCOSS, 1994) which supported inclusive education for all pupils. The Malaysian Education Act 1996 (1998) saw the presentation of inclusive education in light of The Salamanca Statement on Principles, Policy and Practice in Special Needs Education (UNESCOSS, 1994) in which the need to address break even with instructive open door and access for all pupils incorporating those with special education needs (SENs) was highlighted. This inclusive model is centered around the child's entitlement to equivalent training without segregation and the school's duty to acknowledge them, to give fitting offices and support to address the issues of SEN pupils (Lee, 2010). In spite of tremendous steps have been taken in the arrangements and distributions for uncommon needs instruction in Malaysia, inclusive education appears to be tricky to numerous kids who require it. Ideas and standards in inclusive education will be talked about against the setting of Malaysian general education framework and school culture. ' *Inclusive Education* ' as an idea started from the 'special education ' plan as characterized in the Education Act 1996 (1998) and its approach is alluded to this convention. The debate starts with an introduction to the advancement of special needs education as a teach and as a profession in Malaysia, and its impact on the improvement of arrangement and practice towards inclusive education.

In 1996, the Education Act was actualized. A part on a special education was incorporated into this act. The terms '*special education*' and '*special school*' were formally characterized without precedent for Malaysian law. Malaysian pupils with special needs were characterized as having a place in three classifications, to be specific, visual impairment, hearing impairment and learning difficulties (*Berasalah Pembelajaran*). The class of learning difficulties includes Down syndrome, autistic spectrum disorders (ASD), attention deficit/ hyperactivity disorders (AD/HD), mild mental retardation and specific learning difficulties (such as dyslexia) (Ministry of Education Official Portal, 2011).

The Ministry of Education, Malaysia in its report entitled "The Development of Education" for the International Conference on Education in Geneva on November, 2008; expressed that "inclusive" means making schools which welcome all learners, regardless of their characteristic, hindrances or challenges. It is including the generally avoided or underestimated groups, for example, disabled children, girls, children in remote villages, and the extremely poor. These invisible groups are excluded from governmental policy and access to education.

On the other hand, inclusive education is more important field of the national education Blueprint and is identified as a critical goal of the special education program in Malaysia. In this instance, only 6% of pupils with special needs are in inclusive programs. Some 89% attend integrated programs, and the remaining 5% attend special education schools (Ministry of Education, 2013). In 2012, the "Malaysia Education Blueprint 2013–2025" was introduced to generate major transformation and improvement in Malaysia's education system. Among the 11 Key Shifts for transformation and change, inside the Blueprint, inclusive education was advocated for students with SEN, based on current national policy and international best practices. The Ministry of Education, Malaysia (2013) in its Malaysia Education Blueprint states it is committed to an inclusive education model and moving more students with SEN toward inclusion and that by 2021 to 2025, 75% of pupils with SEN will be selected in inclusive programs, all teachers will be equipped with basic understanding and knowledge of SEN, and high quality education will be provided to every child with special needs (Donnie, et al,2016). The Ministry of Education projected that by 2015, 30% of the total number of special need pupils would be in inclusive education (Human Rights Commission Malaysia, 2015).

According to Zalizan & Manisah (2012), The term ‘inclusive education’ is presented in the Act as a major aspect of the continuum of administrations accessible for children’s with special needs. Whereas, the eligibility for special education placement is based on the ‘educability’ of children as assessed by a team of professionals. This is reported in the Act (1998, 342), which states: For government and government-aided schools, pupils with special needs who are educable are eligible to attend the special education program except for the following pupils; with special needs is educable if she\he is able to control himself \herself without assist and is confirmed by a panel which include a clinical practitioner, an officer from the MOE educational program.

HUMAN RIGHTS EDUCATION IN MALAYSIA

In fact, every government on the world, consisting of Malaysia has confirmed the CRC, holistic human rights arrangement tending the social, economic, cultural, civil, and protection rights of children. Human Rights Commission Of Malaysia (SUHAKAM) Transcript of SUHAKAM’s Statement on the Right of Persons with Disabilities to Education 25th Session of the Human Rights Council Paris des Nations, Geneva, 19 March 2014 (Human Rights Commission, 2015). In the context of Malaysia, SUHAKAM finds that a lot of effort has been made to enhance education for persons with hearing or visual impairments. However, lesser attention is given to persons with learning disabilities, such as those with Down syndrome, autism and dyslexia, who’s special needs call for a distinctive approach to education. There is a lack of awareness among the public at large regarding the need to ensure equal access to education for persons with learning disabilities, preferably through inclusive education, as a pre-condition for their full and significant cooperation in the public eye (Human Rights Commission, 2015).

In 2013, the Government propelled the Education Blueprint which was improved in consultation interview with different partners from among nongovernmental associations (NGO) and academicians. SUHAKAM is pleased to note that the Malaysia Education Blueprint for 2013-2025, incorporates a roadmap that seeks to achieve 75-percent enrolment of pupils with ‘special needs’, which include persons with disabilities, in inclusive education settings by year 2025, with the facilities and equipment needed to create a conducive and supportive learning environment (Human Rights Commission, 2015).

Afterwards Malaysia ratified the Convention of the Rights of the Child on 17 February 1995, (Human Rights Commission of Malaysia, 2006) the obligation regarding building up human rights education was credited to the Human Rights Commission of Malaysia which set up an Education Working Group in 2000 under the Human Rights Commission of Malaysia Act 1999 (Act 597). The Commission was directly under the Prime Minister’s Department and offered an explanation to Parliament. In addition to following this, in 2002, a committee was set up by the Human Rights Commission of Malaysia which included academics, ex judges and retired government officers. This group, “Human Rights Education in School”, was set up to examine the degree to which human rights were being practiced in schools and the extent to which pupils, teachers and administrators understood human rights issues. The committee’s research findings served to inform the subsequent planning and recommendations for the delivery of human rights education in schools.

This across the nation research was regulated in 2002-2003 and involved 40 secondary schools in urban and rural areas. Four types of schools participated; mixed, single sex, technical and faith schools. The research focused on participants’ awareness of the existence of the SUHAKAM, the Convention on the Rights of the Child, Children’s Rights and responsibilities, human rights practices in schools and fundamental human rights as outlined in the Malaysian constitution. The findings from the research indicated that many students and teachers did not have good levels of knowledge of human rights education (Nordin, 2010). Therefore proposals were made by SUHAKAM to the Ministry of Education to ensure that teachers, administrators, school support staff and education ministers had a good understanding of the Convention of the Rights of the Child all together that these rights may be maintained (Human Rights Commission of Malaysia, 2006). This situated is inclusive of more conferences, seminars, comprehensive dialogues, workshops and further training programs.

At the later The Universal Periodic Review (UPR) on Malaysia held in October 2013, Malaysia got five suggestions relating to the privileges of people with incapacities. Malaysia acknowledged every one of the five suggestions, all of which touch on guaranteeing access to training with four of them particularly approaching the Government to give equivalent and adequate access to education for children with disabilities including to guarantee an inclusive education framework is set up.

The reception of the Persons with Disabilities Act in 2008 not simply has bring a viewpoint change from welfare model to human rights show, furthermore unequivocally underscored that individuals with disabilities are not to be rejected from the formal education system basically on account of their physical, cognitive or tactile debilitation (Lay & Hui, 2014; p. 49). Therefore in 2013, the new education management for a custom curriculum was acquainted by Ministry of Education with Special Education 1997 and the inclusion of a specialized education in the Preliminary Report of the National Education Blueprint 2013-2025 essentially; Malaysia has demonstrated a strikingly quick pace improvement in a special education starting late. In any case, there is numerous sort of challenges and predicaments that need full concentration and watchful activities to recognize inclusive education for all nationals in Malaysia (Muhamad & Alfa, 2016).

DISCUSSION

The points of an inclusive education framework with in Article 24(1) CRPD re triple; firstly, the full advancement of human potential and feeling of poise and self-esteem, and the reinforcing of regard for human rights, key opportunities and human differences; the improvement by individuals with handicaps of their identity, gifts and imagination, and in addition their mental and physical capacities, to their complete ability; and to empower individuals with inabilities to take an interest competently in the community (Bryni B., 2014).

Inclusive Education mentions finishing isolation or the ponder avoidance of people or groups on the grounds of academic performance, gender, race, culture, religion, lifestyle, health conditions or disability. Inclusive Education depends on the understanding that all learners have the right to be educated with peers, friends and family members, in their own neighbourhood or local community. There is developing acknowledgement of the right of children with disabilities to inclusive education. "Education for All". "Education for All" collaborators have committed to promoting a goal of inclusion, and an inclusive education system at all levels (UNICEF, 2013).

In recent years, Malaysia's move towards inclusive education that further consistent with the worldwide recognition toward inclusive education, Malaysia formally made extreme efforts to combine students with special needs in the field of mainstream education. The UN Convention on the rights of the Child (1989), the UN Standard and Rules on the Equalization of Opportunities for Persons with Disabilities (1993), the UNESCO Salamanca Statement (1994) and the UNESCAP Biwako Millennium Framework for Action (2002), Dakar Framework for Action (2000) and INCHEON Strategy (2012) participate the common issue for the urgent need to educate every child nevertheless of his/her disability or learning difficulty.

Subsequently, the National Special Needs Education System was submitted in the Malaysian Education Act (1996) and the Education (Special Education) Regulations (2013) provide the legal framework for education with disabilities the country which are applicable to government schools or government aided schools. Meanwhile, inclusive education is intently arranged with each a human rights method and the specific concepts mentioned in the CRPD self-determination, independence and partnership (Payel Rai, 2011).

The target therefore CRDP is to alter those structures with the aid of making regular schools inclusive for disabled children. Nevertheless, obstacles to inclusive education can sometimes be difficult to eliminate. Despite the fact that the CRPD installed the right to inclusive education, education system cannot be endlessly adapted to disabled children. Significantly, the CRPD Committee has a critical position in developing tools to make sure the transition to inclusive education systems. This

committee is able to encourage international collaboration to offer general review of applicable reports to this point and to adopt an examination of the manner in which those should help to improve such tools within their specific context.

A significant group that also lacks get admission to mainstream education is that of children with disabilities. Education in mainstream classes for those children is supposed most effective for people who can match in and who can meet the expectations of schools and may address a particularly academic, rigid, and examination-oriented curriculum. Inclusive education entails an accepting and socially diverse environment and effective learning opportunities tailored to the expectations and needs of each child. It provides a wide scope for educational reform to respond to the needs of diverse cultural and social groups at the policy, curricular, pedagogical, and assessment levels. (Bevan-Brown, J.M, et al. 2014).

In the Malaysian context, inclusive education refers to developing schools which welcome all learners, regardless of their characteristics, disadvantages or difficulties. Inclusive education critical to notice that various of developing countries face several barriers. Advocates of inclusive education consequently, consistent with some researches, view a system of inclusion as most advantageous to children's rights, which includes the rights to equality, human dignity and education (Payel Rai Chowdhury,2011).

Inclusion presents a culture where all persons are similarly esteemed and everybody feels acknowledged. Inclusion and support are completely essential for human nobility and the valuation for human rights inside a general public. Thus, introduces a tradition in which every person are equally valued and each person feels normal (Marimuthua & Cheong 2015). Inclusive education desires to be driven with the aid of strategic partnerships among various actors, consisting of families and communities, local and national Non-Government Organizations (NGOs), international organizations and governments, and in particular organizations of disabled peoples , families and children with disabilities themselves. The private sector and NGOs in Malaysia also play an important role to provide some options for education for children with disabilities; and to advocate for their right to quality education.

CONCLUSION

Article 24 of the CRPD also outlines the obligations to be fulfilled for the right to education of disabled people (De Beco,2014).The CRPD made inclusive education a goal to be achieved for all children. Article 24(1) provides that 'States Parties shall ensure an inclusive education system at all levels and lifelong learning'. Nearly ten years after the CRPD was adopted, the time has now come to achieve this. The focus must be on constructing inclusive training structures associated human rights, no longer on eradicating unique faculties. The purpose consequently is to transform these structures by means of making normal schools inclusive for disabled youngsters. Nevertheless, obstacles to inclusive education can occasionally be difficult to eliminate. Despite the reality that the CRPD constructed up the privilege to inclusive education, there are factors of confinement to adjusting the general education framework. Mainstream schools must be a massive choice for those kids. Therefore this article, argued that inclusive schooling framework with human rights will remain an unfinished project requiring constant efforts to assure disabled students' complete participation in the general education system (De Beco, 2016). According to Gordon J.(2013)Almost subscriptions on inclusive education with regards to allude to human rights, specifically to the CRPD, which was the first global legitimate human rights record to declare inclusive education a human right. In any case, barely any examination points of interest what sort of human right the "human ideal to inclusive education truly is. The Committee would then be able to examine whether or not governments have fulfilled their human rights duties in this regard. The point of experience is available to increase and adapt these tools for this purpose. They consequently offer possibilities for the CRPD Committee to set the level for providing meaning to the right to inclusive education of disabled human beings.

The respect of human rights, education is an inherent rights which possessed by each individual irrespective of his or her status and history. In discussing main rights aspect in education, it does not simplest contain imparting and ensuring children's get admission to education, but it also issues with the goals and roles of education to facilitate complete improvement of every child (Quennerstedt & Quennerstedt,2014).

In realizing inclusivity in education sector for children with disabilities, inclusive education must be seen as tool for educational equality, capability equality, justice and well-being of these children (Terzi, 2014).Implementing inclusive education in Malaysia is not an easy task. It challenges the present educational practices and administration. Education for all without discrimination is crucial in developing country to produce citizens who are productive and are able to contribute to the country's changing economy. Further improvement of the present system requires systematic change and full support from all parties concerned. Accordingly, there is hope that Article 24's mandate for inclusive education, together with Malaysia's illustration, will bring the more cognizance, mindfulness, acknowledgment, and, in particular and, implementation of the local, domestic and international laws that are necessary to achieve equal educational opportunities for all children and adults with disabilities in every country of the world. The findings suggest that Malaysia has gained ground as far as strategy advancement in light of the promises made in world congresses on a special education curriculum arranging (Lay WL, Hui ML.2014) Thus, Malaysia Education Blueprint (2013-2025), which expresses that the MOE is focused on moving more pupils with special needs towards the Individual Education Program (IEP) and in addition raising the general nature of arrangement.

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